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EXAMINER	
LY, ANH	

ART UNIT	PAPER NUMBER
2162	

DATE MAILED: 09/20/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/927,163	WILKES, JOHN	
	Examiner	Art Unit	
	Anh Ly	2162	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *27 June 2005*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-26* is/are pending in the application.

4a) Of the above claim(s) *26* is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-25* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

1. This Office Action is response to Applicant's Amendment and Response filed on 06/27/2005.

Response to Arguments

2. Applicant's arguments filed 06/27/2005 have been fully considered but they are not persuasive.

Applicant argued that, "Nowhere does Vahalia teach or suggest loading any routine ... from the same medium that stores the data to be accessed by the routine"; and "the first and second routines are loaded from the same storage medium that stores the data to be accessed." (Page 9, the third paragraph), and "Neither Stegelmann, nor Vahalia, suggests or discloses the first and the second routines stored on the same storage medium that stores the data to be accessed." (page 11, the last paragraph).

In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., loaded from **the same storage medium that stores the data to be accessed**) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Applicant argued that, "the applicant submits that a person would not have been motivated to combine Stegelmann with Vahalia to solve such a problem."

Stegelmann of 6,772,155 teaches a request is issued to access the data storage on the storage unit such as floppy disk, CD or DVD media (fig. 1, col. 26, lines 25-67, col. 2, lines 52-62 and col. 4, lines 50-56), and request or transaction is issued to perform the request such as updating or archiving. Stegelmann does not clearly teach loading a program from the storage medium, receiving a request from storage media and calling the first routine for accessing the data when the request is of the first type and calling the second routine and presenting the requested data. Whereas, Vahalia et al. of 6,816,891 teaches data storage systems over the computer network. One having ordinary skill in the art would have found it motivated to utilize the use of data storage systems over the computer network as disclosed (Vahalia's fig. 9, col. 17, lines 5-18 and also see col. 7, lines 20-67 and col. 8, lines 1-26), into the system of Stegelmann for the purpose of minimizing addition of processing load/access on cached disk storage over the computer network (Vahalia's col. 11, lines 40-67 and col. 12, lines 25-42; Stegelmann's col. 10, lines 25-35).

3. Claims 1-25 are pending in this application.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

5. Claims 1-4, 6-7, 10-15, and 18-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent No. 6,772,155 issued to Stegelmann in view of US Patent No. 6,816,891 issued to Vahalia et al. (hereinafter Vahalia).

With respect to claim 1, Stegelmann teaches receiving a request for access to data stored on the data storage media (see fig. 1, a request is issued to access the data storage on the storage unit such as floppy disk, CD or DVD media: col. 26, lines 25-67, col. 2, lines 52-62 and col. 4, lines 50-56);

determining whether the request is of the first type or the second type (a request is a transaction and each transaction includes one or more requests: col. 4, lines 50-67 and col. 5, lines 1-38); and

accessing the data when the request is of the second type (see fig. 6 and col. 18-35).

Stegelmann teaches instructions of the various software routine or modules being stored on one or more storage units such as floppy disks, CD, DVD media, a hard disk or transported through a network interface card (col. 26, lines 25-62) and request or transaction is issued to perform the request such as updating or archiving. Stegelmann

does not clearly teach loading a program from the storage medium, receiving a request from storage media and calling the first routine for accessing the data when the request is of the first type and calling the second routine and presenting the requested data.

.However, Vahalia teaches a set of data processors for receiving requests from clients and a second set of data process for accessing file system and various of program modules stored in the cached disk system to be loaded for accessing the requests and receiving the request as well as calling the module or routine or operation for accessing the request (see fig. 9, col. 17, lines 5-18. col. 7, lines 20-67 and col. 8, lines 1-26) and presenting the information in the display device.(col. 5, lines 30-32).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to combine the teachings of Stegelmann with the teachings of Vahalia. One having ordinary skill in the art would have found it motivated to utilize the use of data storage systems over the computer network as disclosed (Vahalia's fig. 9, col. 17, lines 5-18 and also see col. 7, lines 20-67 and col. 8, lines 1-26), into the system of Stegelmann for the purpose of minimizing addition of processing load/access on cached disk storage over the computer network (Vahalia's col. 11, lines 40-67 and col. 12, lines 25-42; Stegelmann's col. 10, lines 25-35).

With respect to claim 2, Stegelmann teaches wherein the first routine implements a first set of operations and the second routine implements a second set of operations (file system operations and archiving operations: col. 8, lines 28-40, col. 9, lines 18-55 and col. 10, lines 36-47).

With respect to claim 3, Stegelmann teaches wherein the first set of operations including file system operations (col. 9, lines 35-55).

With respect to claim 4, Stegelmann teaches standardized archival operations (col. 10, lines 36-47).

With respect to claim 6, Stegelmann teaches wherein the first request type includes a request for one or more files from a file system (see fig. 2 and col. 9, lines 35-40).

With respect to claims 7, and 10-14, Stegelmann teaches a method as discussed in the claim 1.

Stegelmann teaches instructions of the various software routine or modules being stored on one or more storage units such as floppy disks, CD, DVD media, a hard disk or transported through a network interface card (col. 26, lines 25-62) and request or transaction is issued to perform the request such as updating or archiving. Stegelmann does not clearly teach a file structure.

However, Vahalia teaches a file directory (see fig. 9, col. 11, lines 25-40 and col. 12, lines 1-20), backup services (col. 7, lines 22-50 and col. 5, lines 48-58).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to combine the teachings of Stegelmann with the teachings of Vahalia. One having ordinary skill in the art would have found it motivated to utilize the use of data storage systems over the computer network as disclosed (Vahalia's fig. 9, col. 17, lines 5-18 and also see col. 7, lines 20-67 and col. 8, lines 1-26), into the system of Stegelmann for the purpose of minimizing addition of processing

load/access on cached disk storage over the computer network (Vahalia's col. 11, lines 40-67 and col. 12, lines 25-42; Stegelmann's col. 10, lines 25-35).

With respect to claim 15, Stegelmann teaches having data stored thereon and having computer readable program code thereon, the computer readable program code including a first routine for accessing the data in response to a request for access to the data as one or more raw data blocks and a second routine for accessing the data in response to a request for access to the data as a file structure (see fig. 1, a request is issued to access the data storage on the storage unit such as floppy disk, CD or DVD media: col. 26, lines 25-67, col. 2, lines 52-62 and col. 4, lines 50-56; a request is a transaction and each transaction includes one or more requests: col. 4, lines 50-67 and col. 5, lines 1-38, and see fig. 6 and col. 18-35).

Stegelmann teaches instructions of the various software routine or modules being stored on one or more storage units such as floppy disks, CD, DVD media, a hard disk or transported through a network interface card (col. 26, lines 25-62) and request or transaction is issued to perform the request such as updating or archiving. Stegelmann does not clearly teach loading a program from the storage media, receiving a request from storage media and calling the first routine for accessing the data when the request is of the first type and calling the second routine and presenting the requested data.

.However, Vahalia teaches a set of data processors for receiving requests from clients and a second set of data process for accessing file system and various of program modules stored in the cached disk system to be loaded for accessing the requests and receiving the request as well as calling the module or routine or operation

for accessing the request (see fig. 9, col. 17, lines 5-18. col. 7, lines 20-67 and col. 8, lines 1-26) and presenting the information in the display device.(col. 5, lines 30-32).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to combine the teachings of Stegelmann with the teachings of Vahalia. One having ordinary skill in the art would have found it motivated to utilize the use of data storage systems over the computer network as disclosed (Vahalia's fig. 9, col. 17, lines 5-18 and also see col. 7, lines 20-67 and col. 8, lines 1-26), into the system of Stegelmann for the purpose of minimizing addition of processing load/access on cached disk storage over the computer network (Vahalia's col. 11, lines 40-67 and col. 12, lines 25-42; Stegelmann's col. 10, lines 25-35).

With respect to claims 18-21, Stegelmann an article of manufacture as discussed in claim 15.

Stegelmann teaches instructions of the various software routine or modules being stored on one or more storage units such as floppy disks, CD, DVD media, a hard disk or transported through a network interface card (col. 26, lines 25-62) and request or transaction is issued to perform the request such as updating or archiving. Stegelmann does not clearly teach file directory.

However, Vahalia teaches a file directory (col. 11, lines 25-67).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to combine the teachings of Stegelmann with the teachings of Vahalia. One having ordinary skill in the art would have found it motivated to utilize the use of data storage systems over the computer network as disclosed

(Vahalia's fig. 9, col. 17, lines 5-18 and also see col. 7, lines 20-67 and col. 8, lines 1-26), into the system of Stegelmann for the purpose of minimizing addition of processing load/access on cached disk storage over the computer network (Vahalia's col. 11, lines 40-67 and col. 12, lines 25-42; Stegelmann's col. 10, lines 25-35).

With respect to claim 22, Cabrera teaches having data stored thereon and having computer readable program code thereon, the computer readable program code including a first routine for accessing the data in response to a request from a first target system type and a second routine for accessing the data in response to a request from a second target system type (see fig. 1, a request is issued to access the data storage on the storage unit such as floppy disk, CD or DVD media: col. 26, lines 25-67, col. 2, lines 52-62 and col. 4, lines 50-56; a request is a transaction and each transaction includes one or more requests: col. 4, lines 50-67 and col. 5, lines 1-38, and see fig. 6 and col. 18-35).

Stegelmann teaches instructions of the various software routine or modules being stored on one or more storage units such as floppy disks, CD, DVD media, a hard disk or transported through a network interface card (col. 26, lines 25-62) and request or transaction is issued to perform the request such as updating or archiving. Stegelmann does not clearly teach loading a program from the storage media, receiving a request from storage media and calling the first routine for accessing the data when the request is of the first type and calling the second routine and presenting the requested data.

However, Vahalia teaches a set of data processors for receiving requests from clients and a second set of data process for accessing file system and various of

program modules stored in the cached disk system to be loaded for accessing the requests and receiving the request as well as calling the module or routine or operation for accessing the request (see fig. 9, col. 17, lines 5-18. col. 7, lines 20-67 and col. 8, lines 1-26) and presenting the information in the display device.(col. 5, lines 30-32).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to combine the teachings of Stegelmann with the teachings of Vahalia. One having ordinary skill in the art would have found it motivated to utilize the use of data storage systems over the computer network as disclosed (Vahalia's fig. 9, col. 17, lines 5-18 and also see col. 7, lines 20-67 and col. 8, lines 1-26), into the system of Stegelmann for the purpose of minimizing addition of processing load/access on cached disk storage over the computer network (Vahalia's col. 11, lines 40-67 and col. 12, lines 25-42; Stegelmann's col. 10, lines 25-35).

With respect to claims 23-24, Stegelmann teaches a method as discussed in the claim 22.

Stegelmann teaches instructions of the various software routine or modules being stored on one or more storage units such as floppy disks, CD, DVD media, a hard disk or transported through a network interface card (col. 26, lines 25-62) and request or transaction is issued to perform the request such as updating or archiving. Stegelmann does not clearly teach a file structure.

However, Vahalia teaches a file directory (see fig. 9, col. 11, lines 25-40 and col. 12, lines 1-20), backup services (col. 7, lines 22-50 and col. 5, lines 48-58).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to combine the teachings of Stegelmann with the teachings of Vahalia. One having ordinary skill in the art would have found it motivated to utilize the use of data storage systems over the computer network as disclosed (Vahalia's fig. 9, col. 17, lines 5-18 and also see col. 7, lines 20-67 and col. 8, lines 1-26), into the system of Stegelmann for the purpose of minimizing addition of processing load/access on cached disk storage over the computer network (Vahalia's col. 11, lines 40-67 and col. 12, lines 25-42; Stegelmann's col. 10, lines 25-35).

With respect to claim 25, Stegelmann teaches having data stored thereon and having computer readable program code stored on a secondary storage associated with the computer usable medium, the computer readable program code including a first routine for accessing the data in response to a request from a first target system type and a second routine for accessing the data in response to a request from a second target system type (see fig. 1, a request is issued to access the data storage on the storage unit such as floppy disk, CD or DVD media: col. 26, lines 25-67, col. 2, lines 52-62 and col. 4, lines 50-56; a request is a transaction and each transaction includes one or more requests: col. 4, lines 50-67 and col. 5, lines 1-38, and see fig. 6 and col. 18-35).

Stegelmann teaches instructions of the various software routine or modules being stored on one or more storage units such as floppy disks, CD, DVD media, a hard disk or transported through a network interface card (col. 26, lines 25-62) and request or transaction is issued to perform the request such as updating or archiving. Stegelmann

does not clearly teach loading a program from the storage media, receiving a request from storage media and calling the first routine for accessing the data when the request is of the first type and calling the second routine and presenting the requested data and the secondary storage into a cartridge for the data storage media.

However, Vahalia teaches a set of data processors for receiving requests from clients and a second set of data process for accessing file system and various of program modules stored in the cached disk system to be loaded for accessing the requests and receiving the request as well as calling the module or routine or operation for accessing the request (see fig. 9, col. 17, lines 5-18. col. 7, lines 20-67 and col. 8, lines 1-26) and tape cartridge (col. 7, lines 15-22).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to combine the teachings of Stegelmann with the teachings of Vahalia. One having ordinary skill in the art would have found it motivated to utilize the use of data storage systems over the computer network as disclosed (Vahalia's fig. 9, col. 17, lines 5-18 and also see col. 7, lines 20-67 and col. 8, lines 1-26), into the system of Stegelmann for the purpose of minimizing addition of processing load/access on cached disk storage over the computer network (Vahalia's col. 11, lines 40-67 and col. 12, lines 25-42; Stegelmann's col. 10, lines 25-35).

6. Claim 5 is are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent No. 6,772,155 issued to Stegelmann in view of US Patent No. 6,816,891 issued to Vahalia et al. (hereinafter Vahalia) and further in view of Pub. No. 2002/0152194 of Ramaprakash H. Sathyanarayan (hereinafter Sathyanarayan).

With respect to claim 5, Stegelmann in view of Vahalia discloses a method for retrieving data from a data storage media as discussed in claim 1.

Stegelmann and Vahalia disclose substantially the invention as claimed.

Stegelmann and Vahalia do not teach wherein the second set of operations includes operations selected from CPIO and TAR.

However, Sythyanarayan teaches utilities in a Unix Operating system consisting of CPIO (COpy In/Out) and TAR (Tape Archiver) (Page 1, section 0001).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to combine the teachings of Stegelmann in view of Vahalia with the teachings of Sythyanarayan by incorporating the use of Unix Operating system's archiving utilities for backing up systems, creating file archives. The motivation being to speed up archival operations and a copy process is also speeded up by transferring data from /to data storage media and to minimize problems caused by the different types of storage devices having different data storage formats.

7. Claims 8-9 and 16-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent No. 6,772,155 issued to Stegelmann in view of US Patent No. ,816,891 issued to Vahalia et al. (hereinafter Vahalia) and further in view of US Patent No. 5,276,867 issued to Kenley et al. (hereinafter Kenley).

With respect to claims 8-9, Stegelmann in view of Vahalia discloses a method for retrieving data from a data storage media as discussed in claim 1.

Stegelmann and Vahalia disclose substantially the invention as claimed.

Stegelmann and Vahalia do not teach wherein the second request type includes a request for one or more logical volumes; wherein the second request type includes a request for an image copy of the data.

However, Kenley teaches request for logical volume (coll. 17, lines 42-56 and image backup (col. 7, lines 51-62 and col. 8, lines 15-25).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to combine the teachings of Stegelmann in view of Vahalia with the teachings of Sythyanarayan by incorporating the use of Unix Operating system's archiving utilities for backing up systems, creating file archives. The motivation being to speed up archival operations and a copy process is also speeded up by transferring data from /to data storage media and to minimize problems caused by the different types of storage devices having different data storage formats.

With respect to claims 16-17, Cabrera in view of Irwin and Vahalia discloses an article of manufacture as discussed in claim 15.

Cabrera, Irwin and Vahalia disclose substantially the invention as claimed. However, Cabrera, Irwin and Vahalia do not teach wherein the second request type includes a request for one or more logical volumes; wherein the second request type includes a request for an image copy of the data.

However, Kenley teaches request for logical volume (col. 17, lines 42-56 and image backup (col. 7, lines 51-62 and col. 8, lines 15-25).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to combine the teachings of Cabrera in view of Irwin and Vahalia with the teachings of Sythyanarayan by incorporating the use of Unix Operating system's archiving utilities for backing up systems, creating file archives. The motivation being to speed up archival operations and a copy process is also speeded up by transferring data from /to data storage media and to minimize problems caused by the different types of storage devices having different data storage formats.

Conclusion

8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Contact Information

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Anh Ly whose telephone number is (571) 272-4039 or via E-Mail: ANH.LY@USPTO.GOV **or fax to (571) 273-4039**. The examiner can normally be reached on TUESDAY – THURSDAY from 8:30 AM – 3:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Breene, can be reached on (571) 272-4107 or **Primary Examiner Jean Corrielus (571) 272-4032.**

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see **http://pair-direct.uspto.gov**. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Any response to this action should be mailed to: Commissioner of Patents and Trademarks, Washington, D.C. 20231, or faxed to: **Central Fax Center (571) 273-8300**

ANH LY
SEP. 8th, 2005

JEAN M. CORRIELUS
PRIMARY EXAMINER